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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,865	07/10/2001	Ryan W. Bruce	RBRUCE-1X	1682
7590	12/30/2003		EXAMINER	
Jeffrey A. Hall 212 Clinton Street Santa Cruz, CA 95062			HORTON, YVONNE MICHELE	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

<b>Office Action Summary</b>	Application No. <b>09/902,865</b>	Applicant(s) <b>Ryan W. Bruce</b>
	Examiner <b>YVONNE M. HORTON</b>	Art Unit <b>3635</b>
		
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>Period for Reply</b> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
- Extensions of time may be available under the provisions of 37 CFR 1.138 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).		
<b>Status</b>		
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jul 14, 2003</u>		
2a) <input checked="" type="checkbox"/> This action is FINAL.      2b) <input type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.		
<b>Disposition of Claims</b>		
4) <input checked="" type="checkbox"/> Claim(s) <u>13-52</u> is/are pending in the application.		
4a) Of the above, claim(s) _____ is/are withdrawn from consideration.		
5) <input checked="" type="checkbox"/> Claim(s) <u>24-52</u> is/are allowed.		
6) <input checked="" type="checkbox"/> Claim(s) <u>13 and 15-23</u> is/are rejected.		
7) <input checked="" type="checkbox"/> Claim(s) <u>14</u> is/are objected to.		
8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.		
<b>Application Papers</b>		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
<b>Priority under 35 U.S.C. §§ 119 and 120</b>		
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received.		
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.		
15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
<b>Attachment(s)</b>		
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
6) <input type="checkbox"/> Other: _____		

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13,15-17 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,205,719 to BRUCE. BRUCE discloses the use of a roof screen (100) including a plurality of frame members consisting of a front element (104), a bottom element (106), and a diagonal element (108); a plurality of base supports (110, 112); a connector (116,120) having a telescoping element (200) and means (202,206) wherein the means (202) is fixedly connected to the telescoping element (200) to the base support, column 3, lines 20-35; a sleeve connector means (114,118,124) for connecting the front (104), diagonal (108) and bottom (106) elements; and a support means (126,128) for supporting a face panel (102) to the front element (104). Regarding claim 15, the telescoping element (200) comprises members (208,210) when positioned together is tubular. In reference to claim 16, the telescoping element (200) is in fixed relation to the base support (110,112). Regarding claim 17, the means (202,206) for connecting the telescoping element (200) are also in fixed relation to the base support (110,112). In reference to claim 21, the frame elements (104,106,108) form a triangular frame, column 1, line 52. Regarding claim 22, the base support (110,112) is operably secured to a roof, column 1, lines 50-51. In reference to claim 23, the support means (126,128) is positioned horizontally.

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***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,205,719 to BRUCE in view of US Patent #5,862,637 to BRUCE. BRUCE '719 discloses the basic claimed roof screen except for the frame members being made from galvanized steel. BRUCE '637 teaches that it is known in the art to form the frame (22) out of galvanized steel, column 2, lines 45-48. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the frame of BRUCE '719 out of steel, as taught by BRUCE '637 in order to ensure that the frame is strong and weather resistant. Steel components are very durable and, although corrosive, are usually durable under most weather conditions.
5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,205,719 to BRUCE in view of Design Patent #243,853 to EJCHORSZT. BRUCE '719 discloses the basic claimed roof screen except for the frame members being tubular shaped. DES #243,853 teaches that it is known in the art to form the frame members of a roof screen device out of tubular elements (not labeled). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the frame of BRUCE '719 out of tubular members, as taught by EJCHORSZT, in order to ensure that the frame is strong, lightweight and weather resistant. Tubular frame members also allows securing devices such as fasteners and screws to more easily be secured to the frame members. If the frame members were

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solid the screw fastener would be much harder to be secured thereto; whereas a hollow tube provides for an ease for attaching one frame member to another for assembly and reassembly.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,205,719 to BRUCE in view of Design Patent #243,853 to EJCHORSZT and US Patent #5,862,637 to BRUCE. BRUCE '719 discloses the use of a roof screen (100) including a plurality of frame members including front elements (104), bottom elements (106), and diagonal elements (108); a plurality of base supports (110, 112); sleeve connectors (114,116,118,120,124,200); panel supports (126,128); and panels (102). BRUCE '719 discloses the basic claimed roof screen except for the frame members being tubular shaped and made from galvanized steel. DES #243,853 teaches that it is known in the art to form the frame members of a roof screen device out of tubular elements, and BRUCE '637 teaches that it is known in the art to form the frame (22) out of galvanized steel, column 2, lines 45-48. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the frame of BRUCE '719 out of tubular members, as taught by EJCHORSZT, and form the members from steel, as taught by BRUCE '637 in order to ensure that the frame is strong, lightweight and weather resistant. Tubular frame members also allows securing devices such as fasteners and screws to more easily be secured to the frame members. If the frame members were solid the screw fastener would be much harder to be secured thereto; whereas, a hollow tube provides for an ease for attaching one frame member to another for assembly and reassembly.

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***Allowable Subject Matter***

7. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 24-52 are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 14, the prior art of record fails to teach the use of a roof screen apparatus having a telescoping element wherein the means for connecting the telescoping element is welded to the base support. The closest prior art of record is US '719 to BRUCE; however, the connector means of BRUCE consists of a cap (202) and hinge pin bolted to the supports, column 3, lines 33-37. The knuckle (200) is representative of all of the knuckles (114-124), column 3, line 21-22, thus the cap (202) is attached by bolt to the frame members and the support.

In reference to claims 24-52, the prior art of record fails to teach the use of a roof screen apparatus including a telescoping connector extending over the bottom frame element wherein a plate extends from the telescoping element and is attached to the base support.

***Response to Arguments***

10. Applicant's arguments filed 7/14/03 have been fully considered but they are not persuasive.

Regarding the applicant's argument that due to the fact that BRUCE '719 the knuckle cap is hingedly connected to the knuckle clamp through a hinge pin and the claim requires that the

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connecting means be attached in fixed relation, in the rejections noted above, the connector means (202) is in fixed relation to the telescoping element.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

Yvonne M. Horton  
Primary Examiner/Art Unit 3635  
December 23, 2003

